



*FW*

PATENT  
Attorney Docket No. BKP-012  
(9615/13)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Beck *et al.* CONF. NO.: 5639  
SERIAL NO.: 10/808,722 GROUP NO.: 3743  
FILING DATE: March 25, 2004 EXAMINER: Not yet assigned  
TITLE: Method and Device Responsive to Diaphragmatic Activity for  
Adjusting Positive Pressure Assist During Expiration

**CERTIFICATE OF FIRST CLASS MAILING UNDER 37 C.F.R. 1.8**

I hereby certify that this correspondence, and any document(s) referred to as enclosed herein, is/are being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to the Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 10th day of December, 2004.

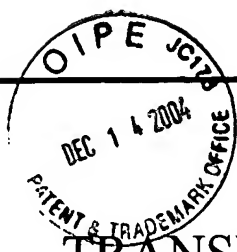
  
Lori Calnan

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is/are:

1. Information Disclosure Statement (2 pgs.);
2. Form PTO-1449 (1 pg.);
3. Copies of Citations (C1-C4);
4. Transmittal Form (1 pg.);
5. Certificate of First Class Mailing (1 pg.); and
6. Return Receipt Postcard.



# TRANSMITTAL FORM

Application Serial Number	10/808,722
Filing Date	March 25, 2004
First Named Inventor	Beck
Group Art Unit	3743
Examiner Name	Not yet assigned
Attorney Docket No.	BKP-012
Patent No.	Not applicable
Issue Date	Not applicable

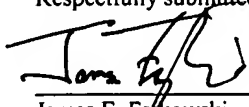
## ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Check Attached <input type="checkbox"/> Copy of Fee Transmittal Form	<input type="checkbox"/> Copy of Notice to File Missing Parts of Application	<input type="checkbox"/> Notice of Appeal to Board of Patent Appeals and Interferences
<input type="checkbox"/> Amendment/Response <input type="checkbox"/> Preliminary <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Letter to Official Draftsperson including Drawings [Total Sheets _____]	<input type="checkbox"/> Formal Drawing(s)	<input type="checkbox"/> Appeal Brief (in triplicate)
<input type="checkbox"/> Petition for Extension of Time	<input type="checkbox"/> Request For Continued Examination (RCE) Transmittal	<input type="checkbox"/> Status Inquiry
<input checked="" type="checkbox"/> Information Disclosure Statement (2 pgs.) <input checked="" type="checkbox"/> Form PTO-1449 (1 pg.) <input checked="" type="checkbox"/> Copies of IDS Citations (C1-C4)	<input type="checkbox"/> Power of Attorney (Revocation of Prior Powers)	<input checked="" type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Certificate of First Class Mailing under 37 C.F.R. 1.8
<input type="checkbox"/> Sequence Listing submission <input type="checkbox"/> Paper Copy/CD <input type="checkbox"/> Computer Readable Copy <input type="checkbox"/> Statement verifying identity of above	<input type="checkbox"/> Executed Declaration and Power of Attorney for Utility or Design Patent Application	<input type="checkbox"/> Certificate of Facsimile Transmission under 37 C.F.R. 1.8
	<input type="checkbox"/> Small Entity Statement	<input type="checkbox"/> Additional Enclosure(s) (please identify below)
	<input type="checkbox"/> CD(s) for large table or computer program	
	<input type="checkbox"/> Amendment After Allowance	
	<input type="checkbox"/> Request for Certificate of Correction <input type="checkbox"/> Certificate of Correction (in duplicate)	

## CORRESPONDENCE ADDRESS

Direct all correspondence to: Patent Administrator  
Testa, Hurwitz & Thibault, LLP  
High Street Tower  
125 High Street  
Boston, MA 02110  
Tel. No.: (617) 248-7000  
Fax No.: (617) 248-7100

## SIGNATURE BLOCK

Respectfully submitted,  
  
James E. Farkowski  
Attorney for Applicants  
Testa, Hurwitz & Thibault, LLP  
High Street Tower  
125 High Street  
Boston, MA 02110

Date: December 10, 2004  
Reg. No. 54,089  
Tel. No.: (617) 310-8414  
Fax No.: (617) 248-7100



PATENT  
Attorney Docket No. BKP-012  
(9615/13)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT(S): Beck *et al.* CONF NO. 5639  
SERIAL NO.: 10/808,722 GROUP NO.: 3743  
FILING DATE: March 25, 2004 EXAMINER: Not yet assigned  
TITLE: Method and Device Responsive for Diaphragmatic Activity for  
Adjusting Positive Pressure Assist During Expiration

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with the provisions of 37 C.F.R. 1.97 and 1.98, Applicants hereby make of record the patents and publications listed on the accompanying Form PTO-1449, and other information contained herein, for consideration by the Examiner in connection with the examination of the above-identified patent application. In accordance with the U.S. Patent Office's partial waiver of the requirement under 37 C.F.R. 1.98(a)(2)(i), only copies of the foreign patent documents and non-patent publications are enclosed.

REMARKS

In accordance with the provisions of 37 C.F.R. 1.97, this statement is being filed (CHECK ONE):

- ☒ (1) within three (3) months of the **filing date** of a national application other than a continued prosecution application under 37 C.F.R. 1.53(d), or within three (3) months of the **date of entry of the national stage** as set forth in 37 C.F.R. 1.491 in an international application, or before the mailing of the **first Office action** on the merits, or before the mailing of a **first Office action** after the filing of a request for continued examination under 37 C.F.R. 1.114; or
- ☐ (2) after the period defined in (1) but before the mailing date of a **final action** or a **notice of allowance** under 37 C.F.R. 1.311, and
- ☐ the requisite Statement is below, **OR**

- ☐ the requisite fee under 37 C.F.R. 1.17(p), namely **\$180.00**, is included herein, or
- ☐ (3) after the mailing date of a **final action** or **notice of allowance** but before the payment of the **issue fee**, **AND**
- ☐ the requisite Statement is below, **AND**
- ☐ the requisite petition fee under 37 C.F.R. 1.17(p), namely **\$180.00** is included herein.

It is respectfully requested that each of the patents and publications listed on the attached Form PTO-1449, and other information contained herein, be made of record in this application.

### STATEMENT

As required under 37 C.F.R. 1.97(e), Applicant(s), through the undersigned, hereby state either that [check the appropriate space only if either (2) or (3) is checked on the previous page and the Statement is required]:

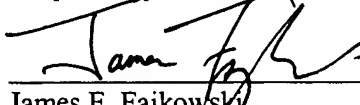
- ☐ 1. Each item of information contained in the Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application **not more than three months** prior to the filing of the Information Disclosure Statement; or
- ☐ 2. No item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this Statement after making reasonable inquiry, no item of information contained in the Information Disclosure Statement was known to **any individual** designated in 37 C.F.R. 1.56(c) **more than three months** prior to the filing of the Information Disclosure Statement.

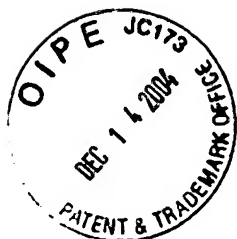
Date: December 10, 2004  
Reg. No. 54,089

Tel. No.: (617) 310-8414  
Fax No.: (617) 248-7100

3152244

Respectfully submitted,

  
James E. Fajkowski  
Attorney for Applicants  
Testa, Hurwitz, & Thibault, LLP  
High Street Tower  
125 High Street  
Boston, Massachusetts 02110



FORM PTO - 1449 INFORMATION DISCLOSURE STATEMENT				ATTORNEY DOCKET NO.: BKP-012 APPLICANT(S): Beck <i>et al.</i> SERIAL NO.: 10/808,722 FILING DATE: March 25, 2004 GROUP: 3743					
U.S. PATENT DOCUMENTS									
EXAM. INIT.		DOCUMENT NUMBER	DATE	NAME	CLASS	SUB CLASS	FILING DATE IF APPROPRIATE		
	A1	5,671,752	09/20/97	Sinderby <i>et al.</i>			03/31/95		
FOREIGN PATENT DOCUMENTS									
EXAM. INIT.		DOCUMENT NUMBER	DATE	COUNTRY CODE	CLASS	SUB CLASS	FILING DATE	ABSTRACT ONLY	ENGLISH LANG (Y/N)
OTHER ART, JOURNAL ARTICLES, ETC.									
EXAM. INIT.	OTHER DOCUMENTS: (Including Author, Title, Date, Relevant Pages, Place of Publication)								
	C1	Findley, Larry J., <i>et al.</i> , "Hypoxemia During Apnea in Normal Subjects: Mechanisms and Impact of Lung Volume," J. Appl. Physiol.; Dec 1983; 55(6); pp 1777-83.							
	C2	Kosch, Philip C., <i>et al.</i> , "Dynamic Maintenance of End-Expiratory Lung Volume in Full-Term Infants," J. Appl. Physiol.; Oct 1984; 57(4); pp 1126-33.							
	C3	Lopes, J., <i>et al.</i> , "Importance of Inspiratory Muscle Tone in Maintenance of FRC in the Newborn," J. Appl. Physiol.; Oct 1981; 51(4); 830-4.							
	C4	Mortola, Jacopo P., <i>et al.</i> , "Dynamics of Breathing in Infants," J. Appl. Physiol.; May 1982; 52(5); pp 1209-15.							
EXAMINER					DATE CONSIDERED				